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Sunil K. Singh
Dorsey & Whitney LLP
Intellectual Property Department
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

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OFFICE OF PETITIONS

In re Application of :
Ternansky et al. : DECISION GRANTED-IN-PART
Application No. 10/722,843 :
Filed: November 25, 2003 :
Attorney Docket No.: :
34433/US/4/AMP/SKS :

This is a decision on the petition filed September 13, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed July 8, 2004, be withdrawn.

The application was filed on November 25, 2003. However, on July 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of November 25, 2004 but pages 27-49 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends pages 27-49 of the specification were filed on November 25, 2003. In support, the petition is accompanied by a copy of applicant's return postcard which lists " 99 pps description, 17 pps claims and 1 pps abstract".¹ The petition is further accompanied by a copy of pages 27-49 of the specification (description and claims).

Applicant's postcard receipt is prima facie evidence that 117 pages of specification (description and claims) including pages 27- 49 of the specification were received on November 25, 2003, but pages 27-49 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that pages 27-49 of the

¹ It is noted 98 pages of description, 18 pages of claims and 1 page of abstract were submitted. Nonetheless the total number of pages 117 were submitted as specification including description and claims.

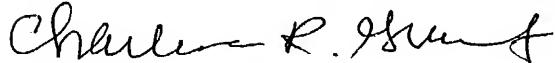
specification were received on November 25, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted pages of specification. However, the Notice was correct regarding the requirement to submit an executed oath or declaration. No petition fee is due. Deposit account 50-2319 will be refunded the \$130.00 petition fee.

Since pages 27-49 of the specification cannot be located in the Office, pages 27-49 of the specification supplied on September 13, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 25, 2003, using the substitute pages 27-49 of the specification supplied on September 13, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petition Attorney
Office of Petitions